THE HON'BLE SMT. JUSTICE T. MEENA KUMARI
and
THE HON'BLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No. 8766 of 2004

O R D E R: (Per the Hon'ble Smt. Justice T. Meena Kumari)

This writ petition is filed seeking to issue a writ of Certiorari calling for the records relating to the order in O.A. No. 4256 of 1998 dated 22.3.2004 on the file of the A.P. Administrative Tribunal, Hyderaba and quash the same and consequently to declare G.O.Ms.No. 18 HM &FW (H1) Department dated 16.1.1998 as illegal and arbitrary and contrary to the judgments of the Tribunal in Rev.M.A.No. 3736 of 1994 in R.P. No. 2903 of 1988 dated 11.6.1996 and Rev.M.A. No. 3737 of 1994 in O.A. No. 1993 of 1990 dated 12.7.1996.

Heard the learned counsel for the parties and perused the material available on record.

The petitioner filed O.A. 4256 of 1998 before the Tribunal seeking to declare that he is entitled to full pay and allowances for the period of suspension i.e. from 28.2.1983 to 23.11.1998 and also for the period from 21.1.1990 to 30.6.1993 i.e. from the date of removal to the date of retirement on the ground that the removal order has been set aside by the Tribunal.

The petitioner was kept under suspension during the period from 28.2.1983 to 23.11.1998 on the ground of unauthorized absence. He was reinstated into service by virtue of the interim orders passed by the Tribunal in the year 1988. Subsequently, vide G.O.Ms.No.38 dated 17.1.1990 the petitioner was removed from service. The applicant questioned G.O.Ms.No. 38 dated 17.1.1990 by filing O.A. 1993 of 1990 and when the same was dismissed, he filed Review M.A. 3736 of 1994 and the same was allowed on 11.6.1996 on the ground that the enquiry was not held in accordance with the rules. While passing the said order, the Tribunal also noticed that some other similarly situated persons as that of the applicant were reinstated. However, the Tribunal dismissed the O.A. 4256 of 1998 filed by the petitioner holding that the authorities have rightly held that the two spells of absence of the applicant cannot be treated as on duty. Aggrieved, the petitioner filed this writ petition.

It is contended by the learned counsel for the petitioner that similarly situated persons have been treated as on duty and the petitioner has been given a different treatment on the ground that he has been kept under suspension from 28.2.1983 to 23.11.1988 and from 21.1.1990 to 30.6.1993. As the similarly situated persons are considered, which fact has been noticed by the Tribunal while allowing Review M.A. No. 3736 of 1994, having regard to the facts and circumstances, this Court is of the considered view that it

would suffice if a direction is given to the respondents to consider the case of the petitioner to treat the period during which he was under suspension as on duty only for the purpose of calculation of pension. It is made clear that the petitioner is not entitled to claim any monetary benefits basing on the same.

The writ petition is accordingly disposed of with the above direction.

T. MEENA KUMARI, J.

G. CHANDRAIAH, J.

Date: 31-07-2007.

MVB.